

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TRAVELERS INDEMNITY COMPANY also known as
Lumsden & McCormick, LLP,

Plaintiff,

Hon. Hugh B. Scott

v.

05CV870A

Order

JOSEPH DAVIS INC.,
BRISBANE REALTY ASSOCIATES LLC,

Defendants.

Before the Court is a stipulation to allow plaintiff to amend the Complaint pursuant to Fed. R. Civ. P. 15(a) (Docket No. 15) and the proposed Amended Complaint (Docket No. 14). Rule 15(a) provides that “a party may amend the party’s pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires.” Fed. R. Civ. P. 15(a) (emphasis added). Here, defendants entered into a written stipulation to allow plaintiff to serve an Amended Complaint, primarily to change the date of loss alleged in the original pleading (Docket No. 15; compare Docket No. 1, Compl. ¶ 2 with Docket No. 14, Am. Compl. ¶¶ 2, 3, 14 (indicating loss occurred between December 14 and 16, 2002)). Although the stipulation includes a “so ordered” signature line, as a written consent of the adverse party to the amendment Court approval and entry as Order is unnecessary and the Court **will not sign** this stipulation.

The Court Clerk is instructed to accept the proposed Amended Complaint (Docket No. 14). Defendants may file Answers to the Amended Complaint within fifteen (15) days of this Order or report to the Court their intention to rely upon their Answers (Docket Nos. 7, 12 (Brisbane Realty), 9 (Joseph Davis Inc.)) to the original Complaint.

The Scheduling Conference in this action remains as previously scheduled (see Docket No. 11) for **Tuesday, April 4, 2006, at 2:30 pm**, before the undersigned.

So Ordered.

/s/*Hugh B. Scott*

Honorable Hugh B. Scott
United States Magistrate Judge

Dated: Buffalo, New York
March 17, 2006